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SUMMARY RECORD OF THE 471st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 3 June 1998, at 10 a.m.

Chairperson: Miss MASON

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Luxembourg (CRC/C/41/Add.2; HRI/CORE/1/Add.10; CRC/C/Q/LUX/1; written replies of the Government of Luxembourg to the questions raised in the list of issues (document without a symbol) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Luxembourg resumed their places at the Committee table.

2. Mr. MAJERUS (Luxembourg) said that a 1992 Act based on a Community directive contained regulations on the compositi n and marketing of breast milk substitutes allowed on the Luxembourg market and formally prohibited any advertising for such products, as well as the distribution of free samples. The Ministry of Health had established a multidisciplinary committee to promote breastfeeding, the relatively frequent practice of which was often abandoned after the third month, when mothers returned to work. There was still much to be done to make that practice more widely accepted.

3. The test to enter secondary school from primary school, which had been abolished two years previously, had been replaced by continuous monitoring involving psychologists. At the end of the last year of primary school, the teacher prepared a recommendation on the track the child should follow and discussed it with the parents. The Government had also launched information campaigns to promote technical education.

4. Mrs. PALME said that she welcomed the plan to extend maternity leave when a child was being breastfed, but wished to know when it would be adopted. She stressed that husbands and baby-friendly hospitals had a role to play in encouraging breastfeeding.

5. Mrs. MBOI recalled that she had already asked the delegation of Luxembourg whether there was machinery to follow up violations of the International Code of Marketing of Breast Milk Substitutes.

6. Mrs. QUEDRAOGO asked what measures were being taken to prevent schools from becoming an instrument of social discrimination. Would it be possible to establish a less rigid system of education that would take account of the affective and emotional characteristics of children? She noted that the pedagogical and psychological training of teachers left something to be desired. Instead of excluding children with learning problems or directing them towards other types of instruction, it might be better to integrate them into the ordinary school system, perhaps by having them monitored by teachers with a better understanding of their problems. With regard to differentiated education centres for children with "special needs", was the Government planning to take measures to have such children and their teachers assisted by psychologists, doctors and psychiatrists? Could such children be included in ordinary classes so that they would not be marginalized? She also asked whether the transparency and organization of the educational system could not be improved. It might be appropriate to review the responsibilities of teachers so that they could concentrate more fully on their main job as educators.

7. Mrs. SARDENBERG requested additional information on the system of student participation in schools referred to in the written replies to question 24 of the list of issues (CRC/C/Q/LUX/1).

8. Mr. RABAH said that he was outraged by the information communicated by the Luxembourg delegation and by NGOs on the conditions of detention of minors and, in particular, the regime of solitary confinement applicable to them. They were treated like criminals, but they were only ordinary offenders. In view of the high recidivism rate, he wished to know what was being done to reintegrate young offenders into society. Did they receive legal assistance? Did social workers help them solve their problems? Did judges, lawyers and social workers receive training to increase their awareness of the problems of young offenders?

9. Mr. FULCI asked what action had been taken on the recommendations made by the Working Group on the Prevention of Drug Addiction (CRC/C/41/Add.2, para. 815). Had the Drug Addiction Prevention Centre referred to in paragraph 825 of the report (CRC/C/41/Add.2) been established? Did the Government have up-to-date statistics on alcohol consumption, which was, according to the 1997 UNDP Human Development Report, one of the highest in the industrialized countries? With regard to drug use, he was surprised by the comparison between coffee consumption and illegal drug use, as well as by the fact that 1 per cent of the total population regularly used cannabis (CRC/C/41/Add.2, para. 810). Was the Government of Luxembourg planning to decriminalize "light" drugs?

10. Referring to the motion adopted by the Chamber of Deputies during the approval of the Convention (CRC/C/41/Add.2, para. 854), he asked whether the Government intended to make the use of children in the production of pornographic material illegal and, in particular, to regulate the development of information technology for that purpose.

11. Mrs. MBOI said that she would like to have more detailed information on the two studies on drug use referred to in the written replies to question 20 of the list of issues (CRC/C/Q/LUX/1). In that connection, she requested further information on the health of young people. Was there a system for the early detection of health problems among young people, as well as related programmes in which young people were directly involved?

12. Referring to the conditions of detention of minors, she said that she was concerned about the illnesses detected in young offenders and by the fact that 49 per cent of them became repeat offenders. She therefore encouraged the authorities to take immediate measures to improve the material, psychological and social environment of those minors. Were the behavioural problems from which they suffered being analysed by a clinical team with a view to the adoption of preventive measures? She also requested additional information on the training of teachers and psychologists.

13. Mrs. PALME, stressing the importance of article 39 of the Convention, asked whether the Government intended to take immediate steps to assist young offenders who were in danger of being marginalized. She also asked whether legislative measures had been taken to combat the dissemination of pornographic materials by electronic means, particularly the Internet.

14. Mrs. SARDENBERG asked whether measures had been taken, especially in schools, to integrate the children of poor families. Did the authorities have statistics on Rom children and what had been the result of programmes to integrate them? Noting that, in its written replies to questions 26 (c) and 27 of the list of issues (CRC/C/Q/LUX/1), the delegation of Luxembourg recognized that the situation of children in detention was serious, she said that she would like to know what the Government's position was. Referring to sexual abuse, she requested clarifications on the action taken on the recommendations made by the Interministerial Task Force which had been set up in September 1996 and was mentioned in the written replies to question 30 of the list of issues (CRC/C/Q/LUX/1).

15. Mrs. KARP asked whether there was infrastructure for keeping first-time juvenile offenders separate from young repeat offenders. She also requested information on the fact that a minor aged between 16 and 18 years could be tried by an ordinary court and on the criteria on which decisions in that regard were based. Would it not be better to have special protection measures for such minors? The law allowed a young offender to be sent abroad if there was no appropriate establishment in Luxembourg. Had agreements been concluded to ensure that such a minor benefited from basic guarantees and that his parents could visit him? She also asked whether the Government of Luxembourg was planning to set a minimum age below which a child could not be imprisoned. It would be useful to have more specific information on applications for a periodic review of placement, which, according to article 37 of the 1992 Protection of Young People Act, could be submitted only one year as from the day on which the placement order had become final. Was that system not too rigid? In her opinion, children subjected to sexual abuse should be able to testify on video cassette or on screen in real time in order to avoid hearings that would be traumatic for them.

16. The CHAIRPERSON, speaking as a member of the Committee, said that Mrs. Sardenberg's question on the number of children enrolled in primary and secondary school had not been answered. Since Luxembourg had ratified Convention No. 138 concerning the Minimum Age for Admission to Employment, she requested details on child labour in Luxembourg and asked whether the Government of Luxembourg had adopted measures and legislation to prosecute Luxembourg nationals who engaged in sexual tourism activities.

17. Mr. MAJERUS (Luxembourg), referring to breastfeeding, said that Luxembourg law regulated the composition of substitutes and their marketing and provided for monitoring machinery. An NGO composed of midwives and parents was promoting breastfeeding training sessions. For growing numbers of students, the traditional advantages of education in Luxembourg, namely, curriculum requirements and trilingualism, were painful burdens rather than genuine opportunities. Many children, especially the children of immigrant families, suffered from the very demanding school system. It was, however, wrong to believe that the teaching staff did not have the necessary training. Psychologists, doctors and teachers worked in the Child Guidance Service. There was a school psychology and counselling service in every high school. Primary school teachers received three years of training based on psychology and educational science in a higher institute of educational studies and research and secondary school teachers had to complete three years of teacher training. In all reception centres, children could go to psychologists who worked full-time or part-time. He was surprised by the evaluation of

differentiated educational centres and noted that, for every specific problem, there was a specialized centre (speech therapy services, institutes for the visually handicapped, psychomotor rehabilitation services, out-patient rehabilitation services). In some cases, the system had even proved to be too effective because it could mean that a child had to be taken out of the normal school and family environment.

18. With regard to the participation of parents in education, he said that the regulations themselves were good, but their implementation depended on the motivation of teachers and of parents. At the communal level, parent-teachers' associations belonged to national federations which negotiated with the Ministry of National Education.

19. Teachers had the same school holidays as pupils. Many teachers spent a great deal of their free time on volunteer activities and helped to improve the quality of community life in their regions.

20. He recognized that training had definite impact (information on and awareness of the rights of the child, social work, sexual and affective education) and confirmed that primary schools did not have full-time principals. Each class was headed by a trained tenured teacher. Two bodies monitored schools: the primary education inspection department, which was part of the Ministry of National Education, and the communal authorities. It could, of course, be asked whether it would not be better to have a teacher or reference person in each school who could guarantee better coordination and ensure direct contacts with parents and children, but the system in force gave teachers responsibilities. Secondary schools were, however, headed by principals.

21. The problems of the National Students' Conference established in 1998 were that the young people had to deal with adults who were more at ease than they were in leading discussions and that student representation might become politicized. He agreed that the situation of minors in the Luxembourg Penitentiary Centre (CPL) in Schrassig was disastrous. He recalled that the "State Socio-Educational Centres" had been part of that prison before becoming a separate department. As a result of the Act of 12 July 1991, the Centres had been removed from the jurisdiction of the Ministry of Justice and placed under the authority of the Ministry of the Family. Many efforts were being made to improve those day release units in which the guards had been replaced by teaching staff. A psychosocial department had been set up. All children who could do so went to ordinary schools. The Centres did not yet have adequate closed units and any young person who wanted to could therefore escape. Such children were then placed in the Luxembourg Penitentiary Centre, where the number of detainees kept increasing, particularly because Luxembourg had become a hub of the drug traffic. The Luxembourg Penitentiary Centre had used up all its financial resources. The Protection of Young People Act prevented any contact between adult and minor offenders, but the isolation regime to which minors were subjected was deplorable, as Mr. Rabah had rightly pointed out. The Government had set up a working group to consider alternative solutions with a view to the establishment of a special secure unit for minors in the Socio-Educational Centre as a means of giving young people an opportunity to get out as quickly as possible. The cost of caring for young people was still exorbitant and the political and administrative authorities were reluctant to provide funding for it. That trend was a matter

of concern, but he hoped to be able to report on the experience gained in that unit when Luxembourg submitted its next report. We welcomed the initiative taken by one NGO which had established a halfway house reserved exclusively for juvenile delinquents. Efforts were also being made to rehabilitate drug addicts. Good progress was being made on the reorganization of the Luxembourg Penitentiary Centre. For example, the director of one of the Socio-Educational Centres had agreed to set up a school in the prison. The prison authorities consented to let psychologists from Dreiborn and Schrassig continue to treat former inmates of the Socio-Educational Centres.

22. With regard to drug use, he said that the Drug Addiction Prevention Centre had been open for two years and was carrying out primary prevention work in cooperation with schools and associations. The authorities had established a network of social workers and counselling centres to assist young drug addicts in connection with AIDS prevention and the methadone programme. Prevention work was also carried out during leisure time and youth centres organized activities during which young people learned to excel by testing their own limits. In Luxembourg, as elsewhere, there was a heated discussion going on about the topic of the decriminalization of so-called "light" drug use. The increase in and spread of alcohol consumption was a matter of concern to the authorities, but it was very difficult to evaluate alcohol consumption by Luxembourgers accurately because many French, Germans and Belgians bought their alcohol in Luxembourg.

23. The authorities estimated that 8 per cent of the population earned less than half the average wage, the yardstick of relative poverty in Luxembourg. Those threatened were single-parent families, families in which the parents had had little training and immigrant and refugee families, in particular. Unemployment was still very low, but the problem of over-indebtedness was disturbing. According to estimates, 5,000 families were no longer able to honour the financial commitments they had undertaken. The guaranteed minimum wage was one means of combating poverty and social exclusion. The amount of the allowance depended on the number of members of a household and their income. The families of political refugees could also benefit from it. Since housing costs were very high, the Government or the communes often paid for a housing allowance as well.

24. With regard to access to education, he pointed out that primary and secondary education and school books were free and that the problem of poverty therefore did not arise in schools, at least at the primary and second levels.

25. Referring to psychological support provided at the Luxembourg Penitentiary Centre, he said that services were offered by psychologists from the Central Social Welfare Department and the Socio-Educational Centres, but there was still a great deal to be done in that regard.

26. The lack of child psychiatry services was a major gap that the Luxembourg authorities were trying to fill. As a result of that gap, a court could order that a minor should be sent to an institution in a neighbouring country. In such a case, the judge was supposed to monitor the minor's case file. As was often the case in Luxembourg, it had to be determined whether the number of persons concerned warranted the establishment of a very specialized institution.

27. To use the available resources more efficiently, Luxembourg had recently concluded cooperation agreements with Belgium's German-speaking community. Under those agreements, mentally handicapped children from Luxembourg could receive specialized instruction in Belgium, while children from Belgium's eastern cantons could have access to the Socio-Educational Centres. Luxembourg maintained excellent working relations with hospitals and other specialized medical centres abroad, partly because all Luxembourg doctors had been trained abroad.

28. Mr. BEWER (Luxembourg) said that judges which dealt with children's issues often took specialized courses abroad. In addition, an association of young lawyers had set itself up as an NGO in order to defend the interests of children and had recently organized training for judges in connection with the Convention.

29. With regard to the right to be represented by defence counsel, children benefited from legal assistance in accordance with the law and could request the juvenile court to provide a lawyer on that basis. In some cases, the lawyer was court-appointed. The fact that a minor had already appeared before the juvenile court several times could be grounds for referring him to the ordinary courts if he was aged over 16. Minors tried by the ordinary courts were liable to the same penalties as other accused persons. Since the entry into force of the Convention, which was directly applicable in that regard, its provisions were taken into account in the determination of the penalty. There was no limit on the age at which a person could be placed in detention.

30. Article 37 of the Protection of Young People Act did not allow parents to submit more than one application for review per year in order to prevent them from taking advantage of that possibility. However, juvenile judges, social workers and directors of social centres could submit such an application at any time.

31. There were legislative provisions in Luxembourg which prohibited child labour in a number of cases because some activities were dangerous for the health and morals of young people.

32. Mr. MAJERUS (Luxembourg) said that what was prohibited was the production, not the possession, of pornographic documents involving children. The Minister of Justice had established a working group which was to propose an amendment to the Penal Code in order to prohibit the possession of such pornographic material as well.

33. The Penal Code prohibited the sexual exploitation of children regardless of whether the acts in question were committed in Luxembourg or abroad. If a Luxembourg national had committed such acts abroad, the cooperation of the countries concerned would be necessary in order to prosecute him. The Government was trying to get Luxembourg travel agencies to discourage any form of sexual tourism.

34. Mrs. KARP asked whether children placed in foreign institutions faced problems of communicating in a language they did not know. The requirement that an application for a review of placement could be submitted only by the minor concerned or his parents after one year was excessive. Without going to

the other extreme, it might be appropriate if placement could be reviewed whenever a specific change took place in the situation of the minor.

35. Mrs. PALME asked whether only the most difficult children were sent abroad. No matter how small it was, a country as rich as Luxembourg should be able to take care of its own children, who were quite vulnerable, however brash they might seem. With regard to child pornography, Luxembourg might learn from the experience of Sweden, which had, following a lengthy procedure, just adopted legislation prohibiting the possession of pornographic documents featuring children.

36. Mrs. QUEDRAOGO said that, in its reply to question 27 of the list of issues (CRC/C/Q/LUX/1), Luxembourg had stated that separation from adults in prisons had the effect that minors could not be employed in workshops or follow training courses. They spent all their time in their cells. What did Luxembourg intend to do about that?

37. Mrs. SARDENBERG said that she was not satisfied with the answers the Luxembourg delegation had given on children in detention. If the Government itself recognized that their situation was scandalous, why had the Working Group on the Promotion of the Rights of the Child, which had been set up in 1991, not managed to change it? Financial arguments did not impress her because Luxembourg was a wealthy country that should be able to afford to make much faster progress in that regard. Lastly, she would like to know what the Luxembourg delegation thought about the adolescent suicide rate, which was high among the population in general and among the prison population.

38. Mr. RABAH asked whether special rehabilitation measures had been adopted for the benefit of girls.

39. Mr. MAJERUS (Luxembourg), referring to children placed abroad, said that there was no formal agreement with the institutions to which they were sent, but either the Government or Luxembourg NGOs had excellent ties of cooperation with those institutions. All children placed abroad were monitored by public and private services and such placement was often regarded as a holiday. The Luxembourg institution which had dealt with the child before his placement abroad shared responsibility for the monitoring and rehabilitation of that child on his return to Luxembourg. He did not think that there was any tendency to send the most difficult cases abroad because a placement decision involved not only the judge, but also the National Commission, which considered each individual situation on a case-by-case basis, unless the decision was taken by the parents. Language was usually not any more of a problem than geographical distance was. The child was consulted before such a decision was taken and, in some cases, he was spontaneously in favour of such a solution. Such children often preferred to go to an institution where they were less well known because they were part of a very small group that it was difficult to get away from. The point of the choices made was thus not to get rid of the most difficult children, but to find the most appropriate solution in each case. In the past few years, the Government had been making considerable efforts to avoid placements abroad and to establish national institutions. With regard to the Luxembourg Penitentiary Centre, the Government's aim was to get children out as fast as possible. By the time it submitted its next report, the Luxembourg delegation hoped that a tried and tested secure unit would have been set up. As a former chairman of the

Working Group to which reference had been made, he understood Mrs. Sardenberg's impatience and was keeping that situation under close review. The initial funds for the implementation of the secure unit project had been provided for in the 1998 national budget.

40. There was no Gypsy community in Luxembourg, but, from time to time, Gypsy children were brought into the country to beg and steal by gangs or even by their families. Those children were treated by the police in exactly the same way as Luxembourg children and efforts were made to find their families and return them.

41. There were no statistics on children's suicides which showed that they were more frequent in Luxembourg than elsewhere. Some suicides were not declared as such. However, there had been suicides and attempted suicides, particularly in the Luxembourg Penitentiary Centre.

42. There were very few delinquent girls and they were dealt with in the same way as boys. The Socio-Educational Centres were being made coeducational.

43. With regard to the review of court orders, a judge could change his decisions at any time. He periodically visited the Socio-Educational Centres and saw the children he had placed there. Teachers and directors could also apply to the judge at any time to suggest changes in the measures he had ordered. What the law provided for was that the child himself should have a possibility at least once a year to apply for the review of his placement. In actual fact, a child did not stay in a Socio-Educational Centre for much more than two or three months, and that meant that such measures were, fortunately, changed more quickly.

44. The CHAIRMAN invited the members of the Committee to make preliminary comments on the report of Luxembourg.

45. Mr. FULCI commended Luxembourg on having annexed a document to its report showing how much of the budget was spent specifically on children, an initiative to be imitated by the other Governments submitting reports to the Committee.

46. Mrs. PALME said she was glad that the Working Group on the Promotion of the Rights of the Child would soon be in a position to submit the results of its work to the Government and welcomed the idea of a plan of action for children threatened with sexual exploitation based on the Agenda for Action adopted at the Stockholm World Congress. In her view, that plan of action should also cover the dissemination by electronic means of pornography featuring children. She reaffirmed that it was contrary to the Convention to make it unlawful to reveal to an abandoned child his identity and true origins. Similarly, children born of parents who were not married to one another should not be stigmatized. Children in detention or about to be placed in detention should be monitored more closely and protected because there seemed to be many such children in proportion tc the size of the population.

47. Mrs. QUEDRAOGO took note of the fact that the Luxembourg Government was endeavouring to disseminate the Convention, particularly in schools, through ongoing training for teachers. She was concerned about the situation of natural children, who were treated differently in legal terms, but she noted that the Luxembourg delegation had assured the Committee that they enjoyed the same rights as other children. She nevertheless recommended that there should be a review of the use of the terms "legitimate" and "illegitimate" in the Constitution and in legal terminology. She stressed that children born following an anonymous delivery were entitled to know their origins and the name of their biological parents. It appeared that the participation of children in school and in the family was not yet fully guaranteed. She recommended that discussions and an awareness-raising campaign should be organized on that question. The Luxembourg delegation itself had recognized the need to offer more educational assistance services to children placed in institutions. The situation of children in detention was also a matter of concern to which a better solution had to be found in the best interests of the child. She had taken note of Luxembourg's intention to increase its share of official development assistance to 0.7 per cent of GDP and strongly encouraged it to continue along those lines.

48. Mrs. KARP said that the Convention was not just a piece of scrap paper and it was not enough to know about it; it had to be implemented as well. The experts concerned should be able to be guided by directives shedding light on problem matters. Children and teachers should be involved in the implementation of the Convention. The concept of the "rights of the child" was not naturally accepted by teachers and it had to be situated in the general context of human rights if they were to understand it properly. The State party had to re-evaluate its infrastructures to ensure that no child could be the victim of discrimination. The proliferation of private services and the absence of central counselling services were matters of concern. The situation of the system of juvenile justice was far from satisfactory and, within a year or two, the Government of Luxembourg should submit a report to the Committee on what it was doing specifically to change that situation.

49. Mrs. SARDENBERG paid a tribute to the competence, frankness and open-mindedness of the Luxembourg delegation. There was no doubt that the State party had done good work in many areas, but the impression was that, in some respects, Luxembourg society was very conservative and somewhat apprehensive about children. Perhaps it would be a good thing to try to change that perception on the basis of the Convention and information and awareness campaigns. The State party had to go further in bringing its legislation into line with the text of the Convention. The Government should consider the possibility of withdrawing its reservations to the Convention, starting with reservations No. 1 and No. 5. The coordination of data collection on all aspects of the implementation of the Convention should be improved. A comprehensive strategy on behalf of children should be established to emphasize the transition from an approach based on social welfare to an approach based on respect for rights. Further steps had to be taken with regard to the implementation of the general principles, particularly those of the best interests of the child and participation. The Committee should be kept informed of changes in the situation of the children detained in the Luxembourg Penitentiary Centre. The Committee would like to know in particular whether there was a correlation between the detention of children and their nationality or their socio-economic situation. It was also

important that, as promised, the Government of Luxembourg should review the judicial treatment of children who had been subjected to sexual abuse to prevent them from being ill-treated by the system as well.

50. Mrs. MOKHUANE said she agreed that Luxembourg should withdraw its reservations and stressed that there was still a great deal to be done in the area of mental health, especially as far as the training of health officials was concerned. Progress also had to be made on the health of adolescents, the prevention of drug addiction and the treatment of detained children and those with psychosocial problems. In the case of children placed in adoptive families, it would be appropriate to use more objective criteria for the selection of such families, who should be subject to constant evaluation. The question of the best interest of the child did not appear to be fully taken into account in all aspects of the legislation referred to during the consideration of the report of Luxembourg.

51. Mr. KOLOSOV said that Luxembourg saw its activities in the European Union context and he recommended that it should move away from that context to develop bilateral relations with neighbouring countries, for that was the only way of effectively combating problems such as drug abuse and child pornography.

52. The CHAIRPERSON, speaking as a member of the Committee, said that Luxembourg should display stronger political will in favour of respect for the rights of the child. She recognized that Luxembourg had ratified the Convention after lengthy consideration, a sign of the importance it attached to the Convention, but the process of preparing reports was not simply a bureaucratic exercise. It was an indication of the commitment made and the fact that the implementation of the Convention was an ongoing process. She had taken note with satisfaction of the proposal on the ombudsman, but considered that the question of the definition of the child in the system of juvenile justice should be given further consideration and that account should be taken of the general principles of the Convention, particularly those of the best interests of the child and respect for the views of the child. Efforts should also be made to deal with the problems of child placement by limiting placement in institutions as much as possible. Lastly, Luxembourg should become a party to the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

53. Mr. MAJERUS (Luxembourg) thanked the Committee for its warm and understanding welcome. His delegation had understood that the Convention was not only a set of directly applicable provisions, but also a basis for a process of political, social and educational innovation that might never be completed. It intended to step up efforts to increase the awareness of political and social decision makers. It had taken note of the preliminary suggestions and comments made by the members of the Committee and would try to transmit them as fully as possible to the ministries concerned and the Chamber of Deputies. It fully agreed that it should continue the dialogue with the Committee outside the framework of its official obligations.

The meeting rose at 1.10 p.m.